Grace T. Yuan
4714 44th Ave N.E.
Seattle, WA 98105

September 21, 2009
Via Hand Delivery

Ms. Catherine Moore
City Clerk
Seattle City Hall
600 4th Avenue, 3rd Floor
Seattle, WA 92124

Re: Seattle Children's Hospital Appeal, No. CF 308884

Dear Ms. Moore:

I testified at the March 3 and July 14, 2009, hearings before the City Examiner in No. CF 308884. On August 11, 2009, the Hearing Examiner issued her Findings and Recommendations ("Hearing Examiner's decision") regarding the request submitted by Seattle Children's Hospital (the "applicant") for a Major Institution Master Plan ("MIMP"). I writing as an individual in response to the August 25, 2009, appeal filed by the Hospital (the "appeal" or the "Hospital's appeal."). Specifically, this letter is focused on the applicant's objections to Hearing Examiner Conclusions 25 and 44 and Findings 103 (pages 13-15) and Conclusions 39-46 (pages 17-20) (together referred to as "applicant's position regarding the unmitigated impacts") and Conclusions 15, 17, 18 and Conditions 1 and 2 (pages 20-24) (referred to as "applicant's position regarding the Floor Area Ratio") (the page citations are to the applicant's August 25, 2009, brief).

The appeal of the Hearing Examiner's decision is based on the record. (SMC 23.76.054) However, the City Code expressly recognizes that there are situations when the Council "may supplement the record with new evidence or information." (SMC 23.76.054) There are two significant pieces of information that are notably absent from the record before the Council. Unless the record is supplemented, the Council will not be able to respond to the applicant's request to amend the Conditions, Conclusions, and Findings regarding the unmitigated impacts and the Floor Area Ratio. As described in greater detail below, both items are vital and must be produced so that the Council can reach an informed decision regarding the MIMP application.

Based on the timeline of the MIMP application, the information was either not available at the time that City of Seattle Department of Planning and Development ("DPD") produced its report or the importance of the information was not know until after the record was closed. Because the applicant is the only party in the position to produce the needed information, the Council should: 1) direct the applicant to produce the information so that the Council can supplement the record before it makes an informed decision; or 2) remand the matter to the Director of the DPD or the Hearing Examiner to "reconsider the application in light of the new evidence." (SMC 23.76.054)

I. The SR 520 Project:

Meaningful analysis of the SR 520 project is missing from every report regarding the MIMP application. Neither the applicant nor PDP addressed the implications of the MIMP when considered with the SR 520 construction that will occur during the same time period.

On January 20, 2009, the Director of DPD issued her Analysis, Recommendation and Determination regarding the MIMP application. In the Report, the Director stated that "transportation analysis considered both current conditions and those anticipated in 2030.... The study did not include capital facilities which were not fully funded at the time of this analysis, such as expansions or modifications to SR 520. (page 70, emphasis added) We understand why the SR 520 project was not incorporated into the DPD Report in January 2009. But the conditions have substantially changed since January.

As shown in Exhibit R-10, an excerpt from the Seattle Channel webpage which is in the Hearing Examiner's record, the State will start construction on SR 520 in 2010. The City's website notes that in 2012, the project will "begin construction on Seattle (west) side of the corridor." The City's website also reports on the bill passed by the Legislature in April 2009 to authorize tolling to help pay for the bridge replacement. Page 5 of Exhibit R-10 is a print out from the Washington State Department of Transportation website. It shows that the Legislature has secured almost $2 billion in funding between the gas tax, the tolls, and federal funds towards this project. Pages 7 to 16 of Exhibit R-10 is a copy of ESHB 2211, authorizing tolling, which was signed into law by the Governor on May 18, 2009.

In the Hearing Examiner's April 2009 Findings, the Examiner discussed the projected 2010 to 2012 timeline for phase 1 of the Children's Hospital expansion project, and the projected 2013 to 2015 timeline for phase 2. Based on the City's website, construction at the west side of the 520 corridor will overlap with the timeline for the build out of the master plan. The traffic analysis states that "approximately 25 percent of the existing Children's traffic uses the Montlake Boulevard corridor to access the campus" and "approximately 25 percent of the existing Children's traffic uses NE 45th Street to access the hospital...." (Page D-7 of the Final Environmental Impact Statement). Potentially, both streams of traffic – or 50 percent of the peak period hospital traffic -- could be affected by the SR 520 project. Concurrently, construction traffic and the impacts on travel time associated with the build out of the master plan would be affecting the same road system.

Because of changed conditions since January 2009 and because the Washington State Legislature "secured a variety of state and federal funding sources," it is no longer accurate to exclude SR 520 from the analysis because it was not fully funded. (Page 5, Exhibit R-10) The Hearing Examiner recognized the need to develop this important information. As noted in Examiner Conclusion 27, "[t]he transportation impacts of the overlap between the state's schedule for construction on the west side of the SR 520 project and build out of the first two phase of Children's proposed MIMP must be considered and appropriate mitigation imposed." Phase 1 is proposed for the 2010 to 2012 time period and phase 2 for the 2013 to 2015 time period. Based on the information that is now available, we believe that the analysis should be conducted

immediately before the Council makes a determination rather than waiting until each phase of the MIMP process.

Under the Seattle Municipal Code, the City Council is required to give consideration to how the proposed MIMP will "significantly harm the livability and vitality of the surrounding neighborhoods." (SMC 23.69.032) The families who live in areas adjacent to the proposed MIMP are directly affected by the applicant's proposal. Specifically, in order to determine how the MIMP construction and build out will affect students going to school, families going shopping, or moms and dads going to work, the applicant should analyze the impacts of the first two MIMP phases since they occur concurrently with the SR 520 project. Note that the comments in Section I of this letter are not and should not be construed to be a challenge to the Final Environmental Impact Statement. The City Code imposes an independent obligation on the Council under the MIMP process to assess the "reasonable balance of the public benefits of development and change with the need to maintain livability and vitality of adjacent neighborhoods." (SMC 23.69.032) Without the SR 520 information, the Council is unable to engage in an informed manner in the balancing process since a critical element of the needed information is missing.

II. Floor Area Ratio:

We support Examiner's Conclusions 15, 17, 18, and Conditions 1 and 2 regarding the process for calculating the Floor Area Ratio ("FAR"). Even though this may sound like a technical issue that does not merit deliberation, these Conditions have broad ramifications for whether the structures will bear any resemblance to the diagrams and the model that the applicant has produced during the MIMP process for the Citizens Advisory Committee.

In Conclusion 17, the Examiner stated "[a]s noted, there is no basis in this case for excluding mechanical space (from FAR calculations). And to provide an incentive for Children's to reduce height, bulk and scale impacts by constructing its parking structures underground, only below-grade parking should be excluded from the FAR." (Emphasis added)

We agree. The criteria for measuring FAR should be the same for hospitals, dental offices, shopping centers, and high rise offices built in the City. While major institutions have a unique process for securing land use approvals, this process – the MIMP review process – does not create a different or unique standard for calculating FAR. Thus, the reference to the Swedish 2005 MIMP, while interesting, should not drive the outcome for this application. In fact, the Examiner's Conclusions and Conditions are consistent with the City's existing approach towards FAR calculations.

The applicant has objected to Conclusions 15, 17, 18, and Conditions 1 and 2 and requested a dramatic rewrite of Conditions 1 and 2. We disagree with the applicant's proposed amendments.

In asking that all above grade parking be exempt from FAR calculations, the applicant is requesting a standard that is almost without precedent in the current City Code. In almost all Seattle zones that use FAR to regulate density (including Downtown zones, Commercial zones,

and Neighborhood commercial zones), above grade parking IS chargeable and is counted towards FAR calculations. The only exceptions are in the Industrial zones and in the Seattle Mixed/Residential zone where above grade accessory parking is exempt from FAR calculations.

In asking that all mechanical equipment space inside a building (as well as rooftop mechanical equipment space) be exempt entirely from FAR calculations, the applicant is requesting a standard that is almost without precedent in the current City Code. In all but three cases where FAR is used to regulate density, mechanical spaces count towards FAR. The three exceptions are as follows: 1) Downtown zones and the Seattle Mixed Residential zone where an allowance for mechanical equipment up to 3.5 percent of gross floor area is deducted in the computation of chargeable FAR area; 2) South Lake Union where up to 15 percent of the mechanical space inside a building is exempt from FAR; and 3) Industrial zones where rooftop mechanical is exempt.

The applicant does not want a limit to be set on how much mechanical space – whether it is inside the building or on the roof – can be exempted from its calculation of gross floor area. First, in most zones, there is no FAR exemptions for mechanical spaces. Second, as noted above, in the zones where mechanical spaces have a limited exemption, it is very narrow in scope. What the applicant is requesting is a dramatic departure from the rest of the existing City Code. The applicant wants ALL mechanical space to be exempt no matter where it is located or how much it has. Since the applicant is developing a hospital and not an office building, there will be a substantial amount of mechanical space. In some hospitals, the mechanical space could constitute up to 20 to 25 percent of the gross floor area and the applicant wants to exempt all of this space from the standards. This is unprecedented in the existing City Code.

In simple terms, the amendments that the applicant has requested could mean that the size and bulk of the buildings could be increased by up to 25 percent. Council should ask the following questions: Does the applicant's amendments result in a completely different plan than what has been shown in the applicant's renderings? If they do not, what is the actual total square footage of the proposal if mechanical spaces and above ground parking is counted like in most other zones?

Based on the amendments that the applicant has requested, it is possible that the FAR issue and the question of whether above grade parking or whether mechanical space should be exempt were not thoroughly analyzed during the MIMP process to date. The Examiner's Conditions 1 and 2 are reasonable and are in alignment with the fact that above grade parking and mechanical spaces are chargeable towards FAR calculations in almost all sections of the current City Code.

If Council were to consider the applicant's request and were to seek to create a completely different approach towards FAR calculations, please be advised that the Council would be establishing a new precedent. It could call into question whether exemptions for above grade parking and the exemptions for all mechanical space should be applied consistently to current Seattle zones like Downtown and commercial zones. Perhaps commercial developers throughout the City would embrace the applicant's request since it would give other developers the basis for arguing for the application of a consistent citywide standard. This new standard would allow developers to build far more than what the current code allows. The Council could then be asked

to explain why it deviated from the existing process for measuring FAR for the applicant's project.

Because the FAR issue has far ranging ramifications, the Council should ask the applicant to produce more information so that the Council can study this issue in a more systemic manner and can consider the citywide impacts of the proposed amendments. At the March 3, 2009, hearing, we testified regarding the need for greater precision in the FAR calculations. We indicated that it was unclear from the applicant's plan which portions of the building count and which areas do not count towards gross floor area or chargeable floor area. We raised the same issue again at the July 14, 2009, hearing. But the full significance of this issue to the applicant was not known until after the hearing closed and until after the Examiner issued her Report.

As the Examiner stated in Conclusion 17, there is a reason to use the same approach towards FAR in this case as in other zones. It provide "an incentive for Children's to reduce height, bulk and scale impacts by constructing its parking structures underground...." Thus, "only below-grade parking should be excluded from the FAR." The Council should ask the applicant to produce information regarding the on the ground implications of the proposed amendments to Conditions 1 and 2. For example, how much additional square footage will be added to the 2.4 million gross square feet if all of these spaces are permitted to be built but excluded from the calculations? What are the impacts to height, bulk, and scale as a result of the exclusion? Could the amendments possibly modify the three-dimensional views of the proposal that have been presented to the Citizens Advisory Committee?

Because the applicant is the only party in the position to produce the needed information, the Council should: 1) direct the applicant to produce the information so that it can be added to the record before the Council; or 2) remand the matter to the Director of the DPD or remand to the Hearing Examiner to reconsider the application in light of the information that is now being added to the record.

Thank you for considering these issues. If you have any questions, please contact me at 935-6158 or at gracetyuan@yahoo.com.

Sincerely,

Grace T. Yuan

Grace T. Yuan

cc: Parties of Record

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CERTIFICATE OF SERVICE

I certify that on the 21st day of Sept, 2009, I sent copies of the following documents:

1. Sept 21, 2009 letter to Ms. Catherine Moore;
2. Hearing No. CF 308884;

(list the name of each document sent, including this Certificate of Service)

to the following parties by e-mail, at the e-mail address listed below for that party:

1. _____ at _____
   Party Name e-mail address
2. _____ at _____
   Party Name e-mail address
3. _____ at _____
   Party Name e-mail address

(add a line for each party served by e-mail)

2 Parties of Record Listed on Attachment A

and to the following parties by first class mail, by depositing the copies in the U.S. mail by 5:00 p.m., with proper postage affixed, at the post office address listed below.

1. _____
   Party Name
   _____
   _____
   _____
   Mailing address

2. _____
   Party Name
   _____
   _____
   _____
   Mailing address

(add another block for each party served by mail)

2 & Parties of Record listed on Attachment B

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 21st day of Sept, 2009, at Seattle, Washington.
City

_____
Name Yan T. Yan

ATTACHMENT A

Michael.Jenkins@Seattle.gov, rosshomemail@aol.com,
pbuck@bucklawgroup.com, johnkeegan@dwt.com, Walst@foster.com,
cjhennings@gmail.com, rickbarrett@gmail.com, judy.barbour@seattle.gov,
jvf4119@zipcon.net, sandy.watson@seattle.gov

ATTACHMENT B

Bill Kirlin-Hackett
Interfaith Task Force on Homelessness
3030 Bellevue Way NE
Bellevue, WA 98004

Steve Ross
3625 — 47th Ave NE
Seattle, WA 98105

Bonnie Miller
6057 Ann Arbor Ave NE
Seattle, WA 98115-7618

John E. Keegan
Davis Wright Tremaine
1201 Third Avenue, Suite 2200
Seattle, WA 98101

Sandy Watson
Assistant City Attorney
Seattle City Attorney's Office
600 Fourth Avenue, 4th Floor
P.O. Box 94769
Seattle, WA 98124-4769

Peter Eglick
Eglick Kiker Whited, PLLC
1000 Second Avenue, Suite 3130
Seattle, WA 98104